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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

CRIMINAL NO. 18-20255

v.

HON. VICTORIA A. ROBERTS

D-3 JAMES WARNER

and

D-6 DOUGLAS EARLES,

VIOLATIONS:

Defendants.

Conspiracy (18 U.S.C. § 371)

Theft From a Federally Funded
Program (18 U.S.C. § 666(a)(1)(A))

Federal Program Bribery (18 U.S.C.
§§ 666(a)(1)(B) & (a)(2))

Conspiracy to Commit Money
Laundering (18 U.S.C. § 1956(h))

Obstruction of Justice
(18 U.S.C. § 1519)

FIFTH SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES:

INTRODUCTION

1. At all times relevant to this Fifth Superseding Indictment, the following were true: The Wayne County Airport Authority (WCAA) is an organization operating within the County of Wayne, Michigan, in the Eastern District of Michigan, and as such, is a local government agency. The WCAA is tasked with the strategic operation and management of two of Southeast Michigan's airports: Detroit Metropolitan Airport (DTW) and Willow Run Airport.

2. The WCAA received in excess of \$10,000 under one or more federal programs involving grants, contracts, subsidies, loans, guarantees, insurance and other forms of federal assistance in each one-year period for the years 2010 through 2014.

3. Defendant, **JAMES WARNER**, a department manager in utilities and infrastructure at the WCAA, was an agent of the WCAA whose duties included field inspection and supervision of maintenance and repair projects at DTW.

4. As a supervisor and inspector for the WCAA's maintenance and repair projects, **JAMES WARNER** had authority to recommend and approve the continuation of maintenance and repair contracts at the WCAA.

5. **JAMES WARNER** was an agent of the WCAA from 2010 through 2014.

COUNT ONE

(Conspiracy to Commit Theft From a Federally Funded Program
and Federal Program Bribery – Title 18, United States Code,
Sections 371, 666(a)(1)(A) and (B))

D-3 JAMES WARNER

GENERAL ALLEGATIONS

6. Paragraphs 1 through 5 of the Introduction to this Fifth Superseding Indictment are hereby incorporated in this Count.

7. William Pritula owned and operated Pritula and Sons, a company which sought and entered into contracts for pavement repair and replacement, as well as

water main repair and fire hydrant installation and maintenance at Detroit Metropolitan Airport, a division of the WCAA.

8. Pritula and Sons entered into maintenance repair contracts with the WCAA from 2003 through 2014.

THE CONSPIRACY

9. From in or about May of 2010, through in or about October of 2014, in the Eastern District of Michigan, Southern Division, and elsewhere, defendant **JAMES WARNER** did unlawfully, willfully, and knowingly combine, conspire, confederate, and agree with William Pritula and others to commit:

- a. Theft from a federally funded program, in violation of Title 18, United States Code, Section 666(a)(1)(A); and
- b. Federal program bribery, in violation of Title 18, United States Code, Section 666(a)(1)(B).

MANNER AND MEANS

The defendant carried out the conspiracy through the following manner and means:

10. **JAMES WARNER** and William Pritula devised and engaged in a scheme in which **JAMES WARNER** would provide confidential and proprietary information to William Pritula in order to enable William Pritula to secure facilities and maintenance contracts at DTW.

11. After William Pritula secured the contracts, **JAMES WARNER**, with William Pritula's knowledge and permission, would create fraudulent invoices on behalf of William Pritula's company for work contracted to be performed at DTW.

12. The fraudulent invoices grossly inflated the cost and scope of William Pritula's labor and materials, so that William Pritula and **JAMES WARNER** could defraud the WCAA and pay kickbacks to **JAMES WARNER**.

13. **JAMES WARNER**, with William Pritula's knowledge and permission, created an email account in William Pritula's name from which **JAMES**

WARNER, posing as William Pritula, would submit the fraudulent invoices to the WCAA.

14. Following the WCAA's payment to William Pritula's company, **JAMES WARNER** would solicit from William Pritula a portion of the inflated proceeds.

15. William Pritula would pay **JAMES WARNER** in order to insure continued maintenance contracts for William Pritula's companies with the WCAA.

16. From September of 2010, through October of 2014, William Pritula's companies received over \$18,000,000 in payments from the WCAA.

17. Of the \$18,000,000 paid to William Pritula's companies during the conspiracy, **JAMES WARNER** received kickbacks of over \$5,000,000 from the bribery and embezzlement conspiracy.

OVERT ACTS

In furtherance of the unlawful conspiracy, and to effect its objectives, the co-conspirators committed the following overt acts, among others:

18. On or about September 12, 2013, **JAMES WARNER** created and submitted a fraudulently-inflated invoice to the WCAA from William Pritula's company detailing a \$938,000 bill for work which a subcontractor charged William Pritula's company \$275,000 to perform.

19. On or about September 30, 2013, **JAMES WARNER** deposited into his bank account a check for \$397,372 from William Pritula's company.

20. On or about June 26, 2014, **JAMES WARNER** created and submitted a fraudulently-inflated invoice to the WCAA from William Pritula's company detailing a \$693,049 bill for work which a subcontractor charged William Pritula's company \$315,471 to perform.

21. On or about July 24, 2014, **JAMES WARNER** deposited into his bank account a check for \$100,000 from William Pritula's company.

22. On or about July 27, 2014, **JAMES WARNER** deposited into his bank account a check for \$76,000 from William Pritula's company.

All in violation of Title 18, United States Code, Sections 371, 666(a)(1)(A) and (B).

COUNT TWO

(Theft From a Federally Funded Program –
Title 18, United States Code, Section 666(a)(1)(A))

D-3 JAMES WARNER

On or about September 30, 2013, in the Eastern District of Michigan, Southern Division, and elsewhere, defendant **JAMES WARNER**, being an agent and an officer of the WCAA, an agency which received benefits in excess of \$10,000 per year under one or more Federal programs involving a grant, contract, subsidiary or other form of federal assistance, embezzled, stole and without authority converted to his own use funds in excess of \$5,000, which property was under the care, custody and control of the WCAA.

All in violation of Title 18, United States Code, Section 666(a)(1)(A).

COUNT THREE

(Theft From a Federally Funded Program -
Title 18, United States Code, Section 666(a)(1)(A))

D-3 JAMES WARNER

On or about July 27, 2014, in the Eastern District of Michigan, Southern Division, and elsewhere, defendant **JAMES WARNER**, being an agent and an officer of the WCAA, an agency which received benefits in excess of \$10,000 per year under one or more Federal programs involving a grant, contract, subsidiary or other form of federal assistance, embezzled, stole and without authority converted to his own use funds in excess of \$5,000, which property was under the care, custody and control of the WCAA.

All in violation of Title 18, United States Code, Section 666(a)(1)(A).

COUNT FOUR

(Conspiracy to Commit Money Laundering -
Title 18, United States Code, Section 1956(h))

D-3 JAMES WARNER

From in or about May 2010, through in or about October of 2014, said dates being approximate, in the Eastern District of Michigan, Southern Division, and elsewhere, defendant **JAMES WARNER**, did knowingly combine, conspire, and agree with William Pritula and others to commit offenses against the United States in violation of Title 18, United States Code, Section 1957, to wit: to knowingly engage and attempt to engage, in monetary transactions by, through or to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, that is at least \$5,000,000, such property having been derived from a specified unlawful activity, that is, conspiracy to commit theft from a federally funded program and federal program bribery, in violation of Title 18, United States Code, Section 1957.

All in violation of Title 18, United States Code, Section 1956(h).

COUNT FIVE

(Conspiracy to Commit Theft From a Federally Funded Program
and Federal Program Bribery – Title 18, United States Code,
Sections 371, 666(a)(1)(A), (B) and (a)(2))

D-3 JAMES WARNER

D-6 DOUGLAS EARLES

GENERAL ALLEGATIONS

1. Paragraphs 1 through 5 of the Introduction to this Fifth Superseding Indictment are hereby incorporated in this Count.
2. Defendant **DOUGLAS EARLES** owned and operated North Star Water Management and North Star Plumbing, companies which sought and entered into contracts for plumbing installation and maintenance at Detroit Metropolitan Airport (DTW), a division of the WCAA.
3. North Star Water Management and North Star Plumbing entered into maintenance repair contracts with the WCAA from May of 2007 through January of 2018.

THE CONSPIRACY

4. From in or about June of 2010, through in or about April of 2015, in the Eastern District of Michigan, Southern Division, and elsewhere, defendants **JAMES WARNER** and **DOUGLAS EARLES** did unlawfully, willfully, and knowingly combine, conspire, confederate, and agree with each other to commit:

- a. Theft from a federally funded program, in violation of Title 18, United States Code, Section 666(a)(1)(A); and
- b. Federal program bribery, in violation of Title 18, United States Code, Section 666(a)(1)(B) and (a)(2).

MANNER AND MEANS

The defendants carried out the conspiracy through the following manner and means:

5. **JAMES WARNER** and **DOUGLAS EARLES** devised and engaged in a scheme in which **JAMES WARNER** would provide confidential and

proprietary information to **DOUGLAS EARLES** in order to assist **DOUGLAS EARLES** in securing plumbing contracts at DTW.

6. After **DOUGLAS EARLES** secured the contracts, **JAMES WARNER**, with **DOUGLAS EARLES's** knowledge and permission, would then create invoices on **DOUGLAS EARLES's** behalf for work **DOUGLAS EARLES** performed at DTW and Willow Run Airport.

7. **JAMES WARNER**, with **DOUGLAS EARLES's** knowledge and permission, also created an email account in **DOUGLAS EARLES's** name from which **JAMES WARNER**, posing as **DOUGLAS EARLES**, would submit invoices to the WCAA.

8. **JAMES WARNER** would then communicate to officials at the WCAA his approval for payment of the invoice he created and emailed to the WCAA.

9. **JAMES WARNER** drafted, fraudulently submitted, and deceptively approved the invoices he created so that **DOUGLAS EARLES** and **JAMES**

WARNER could defraud the WCAA and **DOUGLAS EARLES** could pay kickbacks to **JAMES WARNER**.

10. Following the WCAA's payment to **DOUGLAS EARLES's** company, **DOUGLAS EARLES** would pay kickbacks of the proceeds to **JAMES WARNER**.

11. **DOUGLAS EARLES** would pay **JAMES WARNER** in order to insure continued maintenance contracts for **DOUGLAS EARLES's** companies with the WCAA.

12. Even after **JAMES WARNER** left the WCAA, **DOUGLAS EARLES** continued to pay **JAMES WARNER** kickbacks.

13. From June of 2010, through April of 2015, **DOUGLAS EARLES's** companies received over \$370,000.00 in payments from the WCAA. Of that amount, **DOUGLAS EARLES**, acting with the intent to influence and reward **JAMES WARNER**, paid **JAMES WARNER** kickbacks amounting to over \$113,000 from the bribery and embezzlement conspiracy.

OVERT ACTS

In furtherance of the unlawful conspiracy, and to effect its objectives, the co-conspirators committed the following overt acts, among others:

14. On or about March 15, 2012, **JAMES WARNER**, posing as **DOUGLAS EARLES**, with **DOUGLAS EARLES's** knowledge and permission, created and submitted an invoice for \$4,684 to the WCAA from **DOUGLAS EARLES's** company, detailing a bill for work **DOUGLAS EARLES's** company performed for the WCAA.

15. On or about April 23, 2012, a check for \$4,684 from the WCAA was deposited into **DOUGLAS EARLES's** company's bank account.

16. On or about April 25, 2012, **JAMES WARNER** deposited into his bank account a check for \$1,875 from **DOUGLAS EARLES's** company.

17. On or about April 17, 2012, **JAMES WARNER**, posing as **DOUGLAS EARLES**, with **DOUGLAS EARLES's** knowledge and permission, created and submitted an invoice for \$6,071 to the WCAA from **DOUGLAS**

EARLES's company, detailing a bill for work **DOUGLAS EARLES's** company performed for the WCAA.

18. On or about May 22, 2012, a check for \$6,071 from the WCAA was deposited into **DOUGLAS EARLES's** company's bank account.

19. On or about June 1, 2012, **JAMES WARNER** deposited into his bank account a check for \$2,425 from **DOUGLAS EARLES's** company.

20. On or about February 11, 2013, **JAMES WARNER**, posing as **DOUGLAS EARLES**, with **DOUGLAS EARLES's** knowledge and permission, created and submitted two invoices totaling \$7,630 to the WCAA from **DOUGLAS EARLES's** company, detailing a bill for work **DOUGLAS EARLES's** company performed for the WCAA.

21. On or about March 11, 2013, a check for \$7,630 from the WCAA was deposited into **DOUGLAS EARLES's** company's bank account.

22. On or about March 11, 2013, **JAMES WARNER** deposited into his bank account a check for \$3,052 from **DOUGLAS EARLES's** company.

23. On or about January 12, 2015, **JAMES WARNER** deposited into his bank account a check for \$5,000 from **DOUGLAS EARLES's** company.

24. On or about January 26, 2015, **JAMES WARNER** deposited into his bank account a check for \$6,000 from **DOUGLAS EARLES's** company.

25. On or about March 20, 2015, **JAMES WARNER** deposited into his bank account a check for \$2,000 from **DOUGLAS EARLES's** company.

26. On or about April 6, 2015, **JAMES WARNER** deposited into his bank account a check for \$2,000 from **DOUGLAS EARLES's** company.

All in violation of Title 18, United States Code, Sections 371, 666(a)(1)(A).
(B) and (a)(2).

COUNT SIX

(Conspiracy to Commit Money Laundering -
Title 18, United States Code, Section 1956(h))

D-3 JAMES WARNER

D-6 DOUGLAS EARLES

From in or about June of 2010, through in or about April of 2015, said dates being approximate, in the Eastern District of Michigan, Southern Division, and elsewhere, defendants **JAMES WARNER** and **DOUGLAS EARLES**, did knowingly combine, conspire, and agree to commit offenses against the United States in violation of Title 18, United States Code, Section 1957, to wit: to knowingly engage and attempt to engage, in monetary transactions by, through or to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, such property having been derived from a specified unlawful activity, that is, conspiracy to commit federal program bribery and conspiracy to commit theft from a federally funded program, in violation of Title 18, United States Code, Section 1957.

All in violation of Title 18, United States Code, Section 1956(h).

COUNT SEVEN

(Conspiracy to Commit Federal Program Bribery –
Title 18, United States Code, Sections 371, 666(a)(1)(B))

D-3 JAMES WARNER

GENERAL ALLEGATIONS

1. Paragraphs 1 through 5 of the Introduction to this Fifth Superseding Indictment are hereby incorporated in this Count.
2. Gary Tenaglia owned and operated Envision Electric (Envision), which sought and entered into contracts to provide maintenance for parking structures at Detroit Metropolitan Airport, a division of the WCAA.
3. Gary Tenaglia entered into maintenance and repair contracts with the WCAA from May of 2011 through June of 2014.

THE CONSPIRACY

4. From in or about May of 2011, through in or about June of 2014, in the Eastern District of Michigan, Southern Division, and elsewhere, defendant **JAMES WARNER** did unlawfully, willfully, and knowingly combine, conspire, confederate, and agree with Gary Tenaglia and others to corruptly give, offer, and agree to give thousands of dollars in cash to **JAMES WARNER**, with the intent to influence and reward **JAMES WARNER** in connection with a business, transaction, or series of transactions of the WCAA involving \$5,000 or more, in violation of Title 18, United States Code, Section 666(a)(1)(B).

MANNER AND MEANS

The defendant carried out the conspiracy through the following manner and means:

5. **JAMES WARNER** and Gary Tenaglia devised and engaged in a scheme in which **JAMES WARNER** would provide confidential and proprietary information to Gary Tenaglia in order to enable Gary Tenaglia to secure and retain repair and maintenance contracts for parking structures at DTW.

6. After Gary Tenaglia secured the contracts, **JAMES WARNER**, with Gary Tenaglia's knowledge and permission, would supervise, inspect, and sign off on the work Gary Tenaglia's company performed at DTW.

7. **JAMES WARNER** assisted Gary Tenaglia's company by concealing from the WCAA mistakes in Envision's maintenance and repair projects.

8. In exchange for **JAMES WARNER's** fabricated review of Envision's work, and in order to guarantee continued contracts with the WCAA, **JAMES WARNER** demanded kickbacks from Gary Tenaglia.

9. **JAMES WARNER** told Gary Tenaglia he needed to pay to be part of the "brotherhood" at the airport. One night, **JAMES WARNER** took Gary Tenaglia out to dinner to discuss the kickback arrangement. During the meal, **JAMES WARNER** wrote "5k," a proposed kickback amount, on a napkin. He folded it and slid it across the table to Gary Tenaglia. After Gary Tenaglia acknowledged the meaning of the writing on the napkin, **JAMES WARNER** retrieved the napkin and ate it.

10. **JAMES WARNER** characterized the cash kickbacks he required as the “cost of doing business” at the airport, telling Gary Tenaglia, “You wouldn’t be here if it weren’t for me, your ass would be out.”

11. At least once each month, Gary Tenaglia would pay cash kickbacks to **JAMES WARNER**. **JAMES WARNER** would demand the money from Gary Tenaglia at the time he hand-delivered the WCAA’s payment to Gary Tenaglia.

12. From in or about May of 2011, through in or about June of 2014, **JAMES WARNER** received over \$100,000 in cash bribery payments from Gary Tenaglia.

OVERT ACTS

In furtherance of the unlawful conspiracy, and to effect its objectives, the co-conspirators committed the following overt acts, among others:

13. On or about March 4, 2013, Gary Tenaglia submitted an invoice to the WCAA for repairs and maintenance Envision performed at DTW’s parking structures.

14. On or about January 2, 2014, Gary Tenaglia submitted an invoice to the WCAA for repairs and maintenance Envision performed at DTW's parking structures.

15. On or about February 3, 2014, Gary Tenaglia submitted an invoice to the WCAA for repairs and maintenance Envision performed at DTW's parking structures.

All in violation of Title 18, United States Code, Sections 371 and 666(a)(1)(B).

COUNT EIGHT

(Conspiracy to Commit Money Laundering -
Title 18, United States Code, Section 1956(h))

D-3 JAMES WARNER

From in or about May 2011, through in or about June of 2014, said dates being approximate, in the Eastern District of Michigan, Southern Division, and elsewhere, defendant **JAMES WARNER**, did knowingly combine, conspire, and agree with

Gary Tenaglia and others to commit offenses against the United States in violation of Title 18, United States Code, Section 1957, to wit: to knowingly engage and attempt to engage, in monetary transactions by, through or to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, that is at least \$100,000, such property having been derived from a specified unlawful activity, that is, conspiracy to commit federal program bribery, in violation of Title 18, United States Code, Section 1957.

All in violation of Title 18, United States Code, Section 1956(h).

COUNT NINE

(Federal Program Bribery -
Title 18, United States Code, Section 666(a)(1)(B))

D-3 JAMES WARNER

On or about April 26, 2017, in the Eastern District of Michigan, Southern Division, and elsewhere, defendant **JAMES WARNER**, being an agent and an

officer of the West Bloomfield Water and Sewer Department, a local government agency which received benefits in excess of \$10,000 per year under one or more Federal programs involving a grant, contract, subsidiary or other form of federal assistance, did corruptly solicit, demand and agree to accept a thing of value from Gary Tenaglia, intending to be influenced and rewarded in connection with a transaction and series of transactions of the West Bloomfield Water and Sewer Department involving \$5,000 or more.

All in violation of Title 18, United States Code, Section 666(a)(1)(A).

COUNT TEN

(Obstruction of Justice -
Title 18, United States Code, Section 1519)

D-3 JAMES WARNER

On or about August 16, 2017, in the Eastern District of Michigan, Southern Division, defendant **JAMES WARNER**, did knowingly alter and falsify a document, that is, a report of outside employment, with the intent to impede,

obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of a department and agency of the United States, that is, the Federal Bureau of Investigation.

All in violation of Title 18, United States Code, Sections 1519 and 2.

CRIMINAL FORFEITURE

(18 U.S.C. § 981(a)(1)(C) with 28 U.S.C. § 2461(c); 18 U.S.C. § 982(a)(1))

D-3 JAMES WARNER

D-6 DOUGLAS EARLES

1. The above allegations contained in this Fifth Superseding Indictment are incorporated by reference as if set forth fully herein for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C. § 981(a)(1)(C) with 28 U.S.C. § 2461(c) and 18 U.S.C. § 982(a)(1).

2. As a result of the violation, as set forth in Counts One through Nine (18 U.S.C. §§ 371, 666(a)(1)(A) and (B), 1956(h)) of this Fifth Superseding Indictment, defendants **JAMES WARNER** and **DOUGLAS EARLES** shall forfeit to the

United States any property, real or personal, which constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such violation, pursuant to 18 U.S.C. § 981(a)(1)(C) with 28 U.S.C. § 2461(c) and any property, real or personal, involved in such violation, pursuant to 18 U.S.C. § 982(a)(1).

3. **Money Judgment:** Such property includes, but is not limited to, a forfeiture money judgment in an amount of at least \$5,474,132.48, representing the total amount of gross proceeds obtained by **JAMES WARNER** as a result of the violations as set forth in Count One (18 U.S.C. §§ 371, 666(a)(1)(A), 666(a)(1)(B)) of this Fifth Superseding Indictment, entered against defendant **JAMES WARNER**, in favor of the United States.

4. **Substitute Assets:** If the property described above as being subject to forfeiture, as a result of any act or omission of defendants **JAMES WARNER** and **DOUGLAS EARLES**:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or

- e. has been commingled with other property that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c), to seek to forfeit any other property of defendants **JAMES WARNER** and **DOUGLAS EARLES**, up to the value of the forfeitable property described above, as a substitute asset.

THIS IS A TRUE BILL.

/s/ Grand Jury Foreperson
GRAND JURY FOREPERSON

MATTHEW SCHNEIDER
United States Attorney

/s/ David A. Gardey
DAVID A. GARDEY
Assistant United States Attorney
Chief, Public Corruption Unit

/s/ Eaton P. Brown
EATON P. BROWN
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313.226.9184
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Dated: January 9, 2019

United States District Court Eastern District of Michigan	Criminal Case Cover Sheet	Case Number 18-20255
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NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete it accurately in all respects.

Companion Case Information	Companion Case Number:
This may be a companion case based upon LCrR 57.10 (b)(4) ¹ :	Judge Assigned: Victoria A. Roberts
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	AUSA's Initials: <u>EB</u>

Case Title: USA v. Tenaglia, et. al. (Defendants 3 and 6)

FILED USDC - DT
2019 JAN 9 AM 10:48

County where offense occurred : Wayne

Check One: ☒ **Felony** ☐ **Misdemeanor** ☐ **Petty**

___ Indictment/___ Information --- no prior complaint.
 ___ Indictment/___ Information --- based upon prior complaint [Case number: 18-MJ-30489]
☒ Indictment/___ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].

Superseding Case Information

Superseding to Case No: 18-20255 **Judge:** Victoria A. Roberts

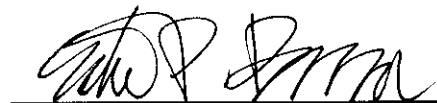
- ☐ Corrects errors; no additional charges or defendants.
☐ Involves, for plea purposes, different charges or adds counts.
☒ Embraces same subject matter but adds the additional defendants or charges below:

<u>Defendant name</u>	<u>Charges</u>	<u>Prior Complaint (if applicable)</u>
Douglas Earles	18 USC Sections 371, 666(a)(1)(A), (B) and (a)(2)	

Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

January 9, 2019

Date



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¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, or (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.